

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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PATRICK A. KENNEDY,

Plaintiff,

v.

ORDER  
03-CV-531

MARIA LEHMAN, et al.

Defendant.

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This case was referred to Magistrate Judge Jonathan W. Feldman, pursuant to 28 U.S.C. § 636(b)(1). On November 19, 2004, defendants filed a motion for summary judgment. On June 26, 2007, Magistrate Judge Feldman filed a Report and Recommendation, recommending that defendants' motion be granted as to plaintiff's due process claim and "stigma-plus" defamation claim. As to plaintiff's first amendment retaliation claim, the Magistrate Judge recommended that defendants' motion for summary judgment be granted with respect to defendant County of Erie, and denied with respect to the individual defendants.

Both parties filed objections to the Report and Recommendation on July 23, 2007. Oral argument on the objections was held on September 17, 2007.<sup>1</sup>

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<sup>1</sup> Plaintiff's counsel failed to appear at oral argument.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a de novo determination of those portions of the Report and Recommendation to which objections have been made. Upon a de novo review of the Report and Recommendation, and after reviewing the submissions and hearing argument from the parties, the Court adopts the proposed findings of the Report and Recommendation.

Accordingly, for the reasons set forth in Magistrate Judge Feldman's Report and Recommendation, defendants' motion for summary judgment is granted as to plaintiff's due process claim and "stigma-plus" defamation claim. As to plaintiff's first amendment claim, the Court grants defendants' motion for summary judgment with respect to defendant County of Erie, and denies defendants' motion for summary judgment with respect to the individual defendants.

Counsel shall appear for a meeting to set a trial date at 9:00 a.m. on September 28, 2007.

SO ORDERED.

s/ Richard J. Arcara  
HONORABLE RICHARD J. ARCARA  
CHIEF JUDGE  
UNITED STATES DISTRICT COURT

DATED: September 18, 2007